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FOREST HILLS, NEW YORK 11375
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HEARING DATE:
TIME:

OBJECTION DUE DATE:

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

In re:

Chapter 11
Case No. 18-23537-rdd

Sears, Roebuck and Co. fka A&E
Factory Service fka Accents for Less fka
Appliance Liquidators fka American
Siding & Deck, Inc., (see continuation
page),
Debtor.

-----X

**AFFIDAVIT IN SUPPORT OF MOVANT'S MOTION SEEKING
AN ORDER PURSUANT TO 11 U.S.C. §362(d) AND RULE 4001 OF THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE GRANTING
RELIEF FROM THE AUTOMATIC STAY**

I, Heath Fagan, being duly sworn, state:

1. As to the following facts, I know them to be true of my own personal knowledge, and if called upon to testify in this action, I could and would testify competently thereto.

2. I am an employee of Carrington Mortgage Services, LLC ("CMS"). CMS is the duly authorized and acting servicing agent on behalf of Bank of America, N.A ("Movant" herein). It is in the regular course and scope and business for CMS to prepare and maintain books and records relating to the status of the servicing of Movant's Mortgage on the Property generally described as **630 Artic Ave., Oak Grove, Kentucky 42262-8224** (the "Property").

EXHIBIT E

3. As part of my job responsibilities for CMS, I am familiar with and have personal knowledge of the information and facts set forth in the books, records and files that pertain to the underlying loan described in the accompanying Motion for Relief and the Property which secures the loan.

4. I have personal knowledge of and am familiar with the record-keeping system in use by CMS as it relates to such books, records and files, including but not limited to the procedures for creating such books, records, and files. I have access to and have in preparing this declaration reviewed the business records, books, records and files of CMS that pertain to the loan and the Property.

5. The documents that are attached to this declaration are true and accurate copies of business records that are maintained in the ordinary course of CMS's business.

6. The Movant is the current payee of a promissory note with Job R. Smith and Dedra R. Smith (collectively the "Obligors"), dated April 2, 2007, in the principal amount of \$95,510.00 (the "Note"). Attached hereto as **Exhibit "A"** is a copy of said Note, secured by a mortgage of same date (the "Mortgage") upon the Property as set forth in the Mortgage, attached hereto as **Exhibit "B"** and made a part hereof.

7. On or about October 15, 2018, Sears, Roebuck and Co. etc. ("Debtor") commenced the instant Chapter 11 Bankruptcy proceeding in this Court.

8. On or about July 29, 2016, an In Rem Judgment and Order of Sale was entered in with the Commonwealth of Kentucky, Christian Circuit Court, Division Two (the "Judgment"), in favor of Movant and against the Obligors and Debtor. A copy of the

Judgment is attached hereto as Exhibit "D".

9. As of August 31, 2019, the outstanding Obligations owed by the Obligors are¹:

Unpaid Principal Balance	\$93,605.02
Unpaid, Accrued Interest	\$62,397.16
Escrow Advances	\$24,008.19
Fees Currently Assessed	\$33,736.84
Less: Partial Payments	(\$0.00)
Minimum Outstanding Obligations	\$213,747.21

10. In addition to the other amounts due to the Movant reflected herein, as of the date hereof, in connection with seeking the relief requested in the Motion, the Movant has also incurred \$1,031.00 in legal fees and costs which will be included in the loan with the Obligors and will not be requested against the Debtor. The Movant reserves all rights to seek an award or allowance of such fees and costs in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

Number of Missed Payments	From	To	Missed Principal and Interest	Missed Escrow (if applicable)	Monthly Payment Amount	Total Amounts Missed
118	02/01/09	11/01/18	\$588.07	\$97.48	\$685.55	\$80,894.90
9	12/01/18	08/01/19	\$588.07	\$154.73	\$742.80	\$6,685.20
Corporate Advance						\$27,527.31
Expense Advance						\$6,209.53
Less partial payments (suspense balance):						(\$0.00)
Total:						\$121,316.94

11. The following chart sets forth the number and amount of payments due pursuant to the terms of the Note that have been missed by the Obligors:

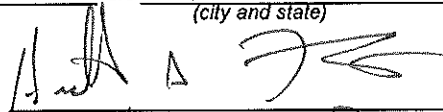
¹ All amounts reflected, including fees incurred for this motion will be assessed to the loan owed by the Obligors and not to the Debtor

12. Movant has elected to initiate foreclosure proceedings on the Property under its mortgage.

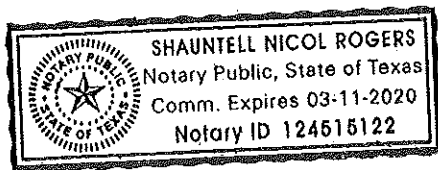
13. Movant is precluded from proceeding to publish the necessary notices and to commence said foreclosure proceedings during the pendency of this Bankruptcy.

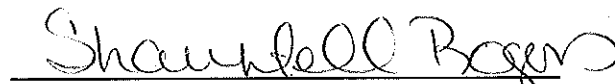
Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 5th day of September at Plano Tx
(city and state)


Name: Heath A Fagan
Title: Authorized Person

SUBSCRIBED AND SWORN TO before me this 5 day of September 2019
at Dallas Texas
city and state




Notary Public
My commission exp:

CONTINUATION

fka American Windows & Sash, Inc.
aka Austin Technology Center
aka Bath and Kitchen Elegance
aka Bath and Kitchen Elegance of the Desert

EXHIBIT E

aka Big Beaver of Caguas Development Corporation
aka Big Beaver of Caguas Development Corporation II
aka Big Kmart
aka Big Kmart (#3680)
aka Central Wholesale Appliance Supply, Inc.
aka Chantell Marketing
aka Circle of Beauty Inc.
aka Delver
aka Delver.com
aka Designer Depot
aka Eblon Technologies India Private Limited
aka Evoke Productions
aka FitStudio by Sears
aka Florida Builder Appliances, Inc.
aka Garment Rack
aka HDC Holding Company of Delaware, Inc.
aka HO. Tampa Development Co.
aka HO. Tysons Office Investment Co.
aka ILJ, Inc.
aka JAF, Inc.
aka KC Kelley Group
aka Kenmore Direct
aka Kids Stockroom
aka Kmart
aka Kmart Acquisition Corp.
aka Kmart Apparel Corp.
aka Kmart Apparel Fashions Corp.
aka Kmart Apparel Leasing Corp.
aka Kmart Apparel Service of Atlanta Corp.
aka Kmart Apparel Service of Des Plaines Corp.
aka Kmart Apparel Service of Sunnyvale Corp.
aka Kmart Corporation
aka Kmart Enterprises, Inc.
aka Kmart Far East Limited
aka Kmart Financing I
aka Kmart Global Sourcing Ltd.
aka Kmart Holding Company
aka Kmart Holdings, Inc.
aka Kmart Lessee Operations, LLC
aka Kmart Management Corporation
aka Kmart Michigan Property Services, L.L.C.
aka Kmart of Amsterdam, NY Distribution Center, Inc.
aka Kmart of Pennsylvania LP
aka Kmart Pharmacies of Minnesota, Inc.

EXHIBIT E

aka Kmart Pharmacies, Inc.
aka Kmart Properties, Inc.
aka Kmart Stores of Indiana, Inc.
aka Kmart Stores of TNCP, Inc.
aka KMI, Inc.
aka Koolvent Aluminum Products, Inc.
aka Kresge - Kmart Limited
aka Little Caesars
aka Max Acquisition Delaware Inc.
aka McKids
aka McKids The Store
aka McPhail's Appliances
aka MetaScale Technologies India Private Limited
aka Monark
aka Monark Holdings Inc.
aka Monark of California
aka Monark Premium Appliance Co.
aka Monark Premium Appliance Co. of Arizona
aka Monark Premium Appliance Co. of California
aka MXSV, Inc.
aka NTB - National Tire and Battery
aka NTB-National Tire & Battery
aka PMB, Inc.
aka Prairie Buck I, Inc.
aka Prairie Buck II, Inc.
aka Private Brands, Ltd.
aka Relay LLC
aka San Diego Appliance Sales
aka Sears
aka Sears #1284
aka Sears Acquisition Corp.
aka Sears Auto Center
aka Sears Auto Center #6582
aka Sears Auto Centers
aka Sears Carpet and Upholstery Care, Inc.
aka Sears Essentials
aka Sears Grand
aka Sears Grand #1673
aka Sears Holdings Management Corporation
aka Sears Home Appliance Showrooms
aka Sears Home Improvement Products (South), Inc.
aka Sears Home Services
aka Sears Home&Life
aka Sears Lessee Operations, LLC

EXHIBIT E

aka Sears Logistics Services
aka Sears Logistics Services, Inc.
aka Sears Merchandise Group
aka Sears Merchandise Group, Inc.
aka Sears New York Insurance Agency
aka Sears Oklahoma Insurance Agency
aka Sears Protection Company Inc.
aka Sears Protection Company, Inc.
aka Sears Technology Services LLC
aka Sears, Roebuck de Mexico, S.A. de C.V.
aka Sears, Wishbook, Inc.
aka ServiceLive Direct
aka SHMC, Inc.
aka Shop Your Way Local, LLC
aka shopyourway.com
aka Sourcing and Technical Services, Inc.
aka SRC O.P. LLC
aka SRC Real Estate (TX), LLC
aka Standards of Excellence
aka Standards of Excellence Outlet Store
aka Super K
aka Super Kmart
aka SUPER KMART CENTER
aka Super Kmart Center
aka Texas Bluelight.com Inc.
aka The Annex Restaurant
aka The Great Indoors
aka Tire Property Holding, Inc.
aka Tri-Valley Crossings
aka Troy CMBC Property, L.L.C.
aka Westar Kitchen & Bath LLC
aka Westar Kitchen and Bath
aka Westar Kitchen and Bath, LLC
aka Western Bluelight.com LLC
aka WestStar Kitchen and Bath
aka WestStar Kitchen and Bath LLC
aka Continental Carpet Cleaning, Inc.
aka Sears Carpet and Upholstery Care, Inc.
aka Print Procurement Company, LLC
aka Print Production Company, LLC
aka Relay LLC
aka Shop Your Way Local, LLC
aka Sears New York Insurance Agency
aka Sears Oklahoma Insurance Agency

EXHIBIT E